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## Immigration Reform and the U.S. Labor Force: The Questionable "Wisdom" of S.2611

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## Immigration Reform and the U.S. Labor Force: The Questionable "Wisdom" of S.2611

### Abstract

[Excerpt] Immigration reform is the domestic policy imperative of our time. The revival of the phenomenon of mass immigration from out of the nation's distant past was the accidental by-product of the passage of the Immigration Act of 1965. Immigration had been declining as a percentage of the population since 1914 and in absolute numbers since 1930. In 1965, only 4.4 percent of the population was foreign born --the lowest percentage in all of U.S. history and totaled 8.5 million people (the lowest absolute number since 1880). There was absolutely no intention in 1965 to increase the level of immigration. The post-World War "baby boom" was on the verge of pouring a tidal wave of new labor force entrants into the labor market in 1965 and would continue to do so for the next 16 years. Instead, the stated goal of the 1965 legislation was to rid the immigration system of the overtly discriminatory admission system that had been in effect since 1924. But as subsequent events were to reveal, this legislation let the "Genie out of the jug." Without any warning to the people of the nation, the societal changing force of mass immigration was released on an unsuspecting American economy and its labor force. By 2005, the foreign-born population had soared to 35.5 million persons (or 12.1 percent of the population) and there were over 22 million workers in the labor force (or 14.7 percent of the labor force).

### Keywords

ILR, Cornell University, human resource, immigration, reform, policy, labor force, admission system, U.S., legislative issues

### Comments

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Testimony at Hearings of the Judiciary Committee of the U.S. House of Representatives  
Evansville, Indiana  
August 29, 2006

IMMIGRATION REFORM AND THE U.S. LABOR FORCE: THE QUESTIONABLE  
“WISDOM” of S.2611 (i.e., THE COMPREHENSIVE IMMIGRATION REFORM  
ACT OF 2006)

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*“We should be careful to get out of an experience only the wisdom that  
is in it – and stop there, lest we be like the cat that sits on a hot stove-lid.  
She will never sit down on a hot lid again—and that is well; but also she will  
never sit down on a cold one anymore.” Mark Twain*

Immigration reform is the domestic policy imperative of our time. The revival of the phenomenon of mass immigration from out of the nation’s distant past was the accidental by-product of the passage of the Immigration Act of 1965.<sup>1</sup> Immigration had been declining as a percentage of the population since 1914 and in absolute numbers since 1930. In 1965, only 4.4 percent of the population was foreign born -- the lowest percentage in all of U.S. history and totaled 8.5 million people (the lowest absolute number since 1880). There was absolutely no intention in 1965 to increase the level of immigration. The post-World War “baby boom” was on the verge of pouring a tidal wave of new labor force entrants into the labor market in 1965 and would continue to do so for the next 16 years. Instead, the stated goal of the 1965 legislation was to rid the immigration system of the overtly discriminatory admission system that had been in effect since 1924. But as subsequent events were to reveal, this legislation let the “Genie out of the jug.” Without any warning to the people of the nation, the societal changing force of mass immigration was released on an unsuspecting American economy and its labor force. By 2005, the foreign-born population had soared to 35.5 million persons (or 12.1 percent of the population) and there were over 22 million workers in the labor force (or 14.7 percent of the labor force).

Clearly, the overarching conclusion from the experiences of the past 41 years is that, when it comes to immigration reform, legislative changes should only be taken with great caution. While there is common agreement that the existing system requires major changes, the need for reforms should not be seen as an opportunity to introduce a myriad of dubious provisions – each of which has significant labor market implications-- simply to placate the opportunistic pleadings of special interest groups.

Immigration is a policy-driven issue. Policy changes make a difference. Any changes should be to the benefit of the nation – especially the welfare of its existing labor force. For as America’s most influential labor leader, Samuel Gompers, observed in his

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<sup>1</sup>

autobiography: "Immigration is, in all of its fundamental aspects is a labor problem."<sup>2</sup> For no matter how immigrants are admitted or by what means they enter the United States, most adult immigrants immediately join the labor force following their entry as do today many of their spouses and, eventually, most of their children. Immigration has economic consequences, which political leaders need to take into account when making any policy decisions.

#### "The Hot Stove-lid" Issue: Illegal Immigration

The underlying reform issue that must be addressed before any others is illegal immigration. It makes no sense to debate remedies for deficiencies and/or additions to the extant immigration system when mass violations of whatever is enacted are tolerated year after year after year. The accumulated stock of illegal immigrants is believed to number between 11.5 to 12 million persons.<sup>3</sup> The annual additional flow is estimated to be between 300,000 to 500,000 persons. Many believe these estimates are too low. Worse yet, these numbers exist despite the fact that over 6 million illegal immigrants have been allowed to legalize their status as the result of seven amnesties granted by the federal government since 1986.<sup>4</sup> No other element of immigration reform has any claim of priority over the enactment of measures to end this scourge to effective policy implementation. The hemorrhage of illegal immigrants has not only made a mockery of the nation's immigration laws, it has seriously undermined the public's confidence in their own government's ability to secure its borders and control the nation's destiny.

Despite the fact that the issue of illegal immigration had been identified soon after the Immigration Act of 1965 was passed, it took Congress another 21 years to finally confront the issue. It did so with the passage of the Immigration Reform and Control Act of 1986 (IRCA). This legislation made it illegal for an employer to hire a non-citizen unless that person had specific authorization to work (i.e., they were a permanent resident alien of the United States or they held a specific non-immigrant visa that permitted them to work under specific terms for a temporary time period). A scale of escalating civil penalties coupled with the potential of criminal penalties for serious repeat offenders was established.

IRCA also granted a general amnesty to most illegal immigrants living in the country since January 1, 1982 and an industry-specific amnesty to most illegal immigrants who had worked in the perishable-crop sector of the agricultural industry for at least 90 days between May 1, 1985 and May 1, 1986. These amnesties were deemed necessary because, prior to the passage of IRCA, our immigration policies were seen as being ambiguous as to their intentions relative to the working rights of illegal immigrants. While it was illegal for illegal immigrants to enter the country without inspection or to work in violation of the terms of an otherwise legal non-immigrant visa, it was not illegal for a U.S. employer to hire them. IRCA ended this legal hypocrisy with its new

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provisions regarding employer sanctions. They became effective the instant that President Ronald Reagan signed the legislation on November 6, 1986.

Previously, legislation to enact employer sanctions had been introduced by the Judiciary Committee of the U.S. House of Representatives and was passed in 1971 and 1972 only to die both times in the U.S. Senate. The proposal was resurrected and included as part of a legislative package proposed by President Jimmy Carter in 1977. He had correctly identified illegal immigration as being a critical labor market problem and included employer sanctions as part of his legislative remedies to correct this mounting malady. Congress, however, was hesitant to accept such a bold change in the status quo and believed that it would be better to address the problem of illegal immigration in the context of a comprehensive effort to reform of all aspects of the nation's embattled immigration system. To aid them in this task, Congress created the Select Commission on Immigration and Refugee Policy, chaired by the Rev. Theodore Hesburgh who was President of Notre Dame University at the time. It was requested to study all aspects of the nation's immigration system and to make any recommendations for changes it deemed necessary. When the Select Commission made its final report in early 1981, it identified illegal immigration as the primary cause for the immigration system to be "out of control." The Select Commission concluded that the "centerpiece" of the nation's efforts to enforce its immigration laws be employer sanctions. Ultimately in 1986, Congress and the President agreed and they were enacted as part of IRCA. By this time, efforts to pass "comprehensive" immigration reform had been abandoned when those efforts failed in both 1982 and 1984 (likewise, refugee reforms had already been peeled-off for separate legislative action in 1980). But amidst a continuing public outcry demanding action on illegal immigration, a strategy of "piecemeal" reform was adopted in 1986 by congressional leaders -- with illegal immigration identified as being the most egregious problem that needed to be addressed first-- and it proved to be successful.

Experience quickly revealed, however, that IRCA had serious weaknesses. Without a reliable and verifiable worker identification system in place, fraudulent documents are easily obtained which meant that enforcement efforts can be-- and are--widely circumvented. Vastly inadequate resources were provided to manage border entries and to patrol the vast border space between entry points. Internal enforcement away from the border and at worksites was and still is virtually non-existent. As a consequence, illegal immigrants continue both to enter surreptitiously or to overstay and violate the terms of legal visas. As a result, violations of the employer sanctions provisions of IRCA were -- and still are--viewed as being "risk-free" actions by many employers. In 2004, only three employers nationwide paid criminal fines for violating the law. Perversely, those employers who seek to follow the law are often placed at a distinct competitive disadvantage in their hiring decisions with those employers who flaunt the law.

As for the illegal immigrants themselves, those apprehended at or near the border are typically simply returned to Mexico, if that is their nationality. They then repeat their efforts to enter illegally and continue to do so until eventually they succeed in avoiding capture. Those who are apprehended and are not of Mexican origin are usually released and told to report to a hearing at some distant date (which few ever do). The same has

been often the case away from the border. Because there is a chronic shortage of detention facilities nationwide and as detention is costly, those apprehended away from the border are likewise usually released and either told to report to a future hearing or to agree voluntarily to leave the country on their own (few do either). If it were not for the human tragedies involved, the entire federal enforcement process to date would be script for comedy.

But the fundamental reason to rectify the shortcomings of IRCA are associated with the reasons why employer sanctions were deemed necessary in the first place: to protect the American worker (defined here and hereafter as being the native born workers; all foreign born persons who have become naturalized citizens; those non-citizen workers who are permanent resident aliens; and those foreign nationals who have been granted specific non-immigrant visas that permit them to work for limited time periods in the country) from having to compete for jobs with persons who are legally not supposed even to be in the country and absolutely not supposed to be in the labor force).

It is estimated that there are 7.2 million illegal immigrants in the labor force in 2005 (or about 4.9 percent of the nation's labor force).<sup>5</sup> But it is not the total number -- even though it is very large and no doubt undercounted due to the great difficulty obtaining reliable data on any illegal activity -- that is the crucial concern. Because illegal immigrants tend to be disproportionately concentrated in certain segments of the nation's labor market, their direct impact is quite specific. The 2000 Census reported that 58 percent of the adult foreign-born population had only a high school diploma or less. Undoubtedly the educational attainment level of illegal immigrants is even worse than this bleak Census finding that is the product of our entire immigration system. Consequently, there is no doubt that most illegal immigrants are poorly educated, unskilled and often do not speak English. Of necessity, therefore, they seek employment in the low skilled occupations in a variety of industries. In the process, they artificially swell the labor supply in those occupations and industries and depress the wages of the low skilled American workers who also work in these sectors.<sup>6</sup>

If permitted to compete for these jobs with American workers, the illegal immigrants will always win. This is because they will do anything to get the jobs -- accept lower than prevailing wages; work longer hours; work under dangerous and hazardous working conditions; and live in crowded and sub-standard housing. They will accept conditions as they are and are less likely to report violations of prevailing laws pertaining to work standards, anti-discrimination and sexual harassment -- even if they know these laws exist (which many do not). No American worker can successfully compete against them -- nor should they -- when the rules of the game are who will work the hardest, for the longest, and under the worst conditions.

As a consequence, the illegal immigrant worker becomes the "preferred worker" for employers. It is not that "American workers will not do certain jobs;" it is that they will not do the jobs under the same terms that illegal immigrants often will -- nor should they.

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As for the illegal immigrants, they willingly work under these adverse conditions, because their orbit of comparison is with the conditions of work in their homelands. Literally, it does not matter how bad the working conditions are in the United States as they are invariably far better than they were where they come from. Sometimes it is simply the fact that it is possible to get a job at all that distinguishes the state of economic opportunity in the United States from their previous experiences in their countries of origin.

Thus, illegal immigrants will always be willing to work in any job they can find. Low skilled American workers (as defined above), on the other hand, know that low wages and bad working conditions are associated with jobs where employers typically consider individual workers as being dispensable. The work may be essential, but who does it is not important. As long as someone can be found to do it, there is no need to make the job attractive or to compete actively to get someone to do it. The availability of a pool of illegal immigrants who are more than willing to do fill these jobs means that wages do not have to be increased or do working conditions need to be improved. Moreover, employers have found illegal immigrants so attractive that they often use those who they do hire as a network to hire their relatives and friends when they need replacements or additional employees. As a consequence, there are thousands -- probably tens of thousands--of jobs in which employers will not hire American workers.<sup>7</sup> They do not want them and, given the alternative of illegal immigrants, they do not recruit or hire American workers. All of this is illegal, of course, but who is keeping the illegal immigrants out?

In this context, it is important to know that there are more than 34 million low wage workers in the U.S. labor force (those earning less than \$8.70 an hour -- a wage that will about meet the minimum poverty threshold for a family of four) who are in the low skilled sector of the labor market.<sup>8</sup> Overwhelmingly, most of these workers are American workers (as defined above). Also, as the number of illegal immigrant workers has soared since the year 2000, 3.2 native born persons of working age who had only a high school diploma or less have dropped-out of the labor force.<sup>9</sup> Presumably, they have found it more rewarding to seek public benefits to support themselves or chosen to pursue illegal activities to support themselves. Unfortunately, it is these low skilled American workers who bear most of the burden of competing for the jobs on the lower skill rungs of the nation's economic job ladder with illegal immigrants.

It comes as no surprise, therefore, that the Council of Economic Advisers to the President during the Clinton Administration found that "immigration has increased the relative supply of less educated labor and appears to have contributed to the increasing inequality of income within the nation."<sup>10</sup> Subsequent research has documented the obvious. In a study released in late 2005 by the National Bureau of Economic Research that analyzed

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the explanations for the dramatic rise of family income inequality in the United States that has occurred since 1968 (i.e., roughly the same period that spans the revival of the current wave of mass immigration), it found that “for the lower half of the income distribution, ...changes in labor supply” was one of the “principal causes of the growing distance between the poor and the middle-income families.”<sup>11</sup> Thus, immigration in general but illegal immigration in particular is unquestionably a major explanation for this worrisome and dangerous societal trend.

Massive numbers of illegal immigrants such as those now in the U.S. labor force -- and the prospect that many more will continue to come until the magnet of finding jobs is turned-off -- has opened wide the door for human exploitation. The literature is rampant with case studies and reports that document that the portion of the labor market where illegal immigrants work is infested with the use of extortion and brute force (by human smugglers which is a thriving criminal enterprise), human slavery (workers bound to human smugglers until their fees are paid off), wage kickbacks (to employers of illegal immigrants as well as to labor contractors), child labor, sexual harassment, job accidents (especially by illegal immigrants who cannot read safety warnings or who lie about their past work experiences and are injured or killed in jobs that they really do not know how to do), and the growth of “sweat shop” manufacturing.<sup>12</sup>

Thus, there is nothing romantic about the nation’s failure to enforce its immigration laws no matter how often or vocal pro-immigrant advocacy groups try to spin and to rationalize the issue. Indeed, the indifference paid by many of our national political leaders, the media, and many elite leaders of business, labor, religious, civil rights, and civil liberties groups to these exploitive conditions represents a decidedly seamy side -- the dark side, if you will -- of our democracy.

In addition to the adverse workplace impact of illegal immigration, there are other corrosive effects on the social fabric that are also linked to illegal immigration. Among these are: adult illiteracy, child poverty, school dropouts, unvaccinated children, violent street gangs, crime, and persons without health insurance to mention only some of the concerns that are reasons themselves to act.

### The Lessons from “Experience”

Illegal immigration is the primary issue that immigration reform must embrace. Not only is it a cause itself of significant harm to the economic well-being of the most needy members of the American populace, but it also adversely affects the broader society itself. Hence, there is little reason to believe that other policy reforms can be beneficial as long as the integrity of the entire system is in question. There are three steps that must be taken: 1. the employment sanctions system must be made to work ( e.g., a program to verify social security numbers must be made mandatory immediately and steps taken to establish a national counterfeit-proof worker identification card be undertaken and implemented as soon as possible; internal enforcement at the worksite to validate that

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employees are in fact eligible to work must become a routine matter; fines for violations of the employer sanctions system must be increased as must be the criminal penalties for repeat offenders. 2. Enforcement must become a reality (by both deed and publicity, the message must be made clear: illegal immigrants will not work in the United States -- those apprehended will be deported and those who hire them will be prosecuted to the full extent of the law; more detention facilities, manpower, and resources must be devoted to enforcement; 3. There must be no amnesties -- now or in the future -- for those illegally in the United States (American workers are being harmed by the presence of persons in the labor force who are not supposed to be there; getting those who are now here out of the labor force is as important as keeping future illegal immigrants from entering it; talk of amnesties only raises the hopes of those here that they can stay and of others outside the country to keep coming because, if an amnesty is provided again, it will likely be done again in the future -- that is the wrong message).<sup>13</sup>

As there is no debate over the fact that the nation's immigration laws are not being enforced, "experience" indicates that fact alone is one of the primary reasons why illegal immigration not only continues over the years but gets progressively worse. Until the nation's immigration laws are made enforceable and are enforced, "wisdom" dictates that the reform process should "stop" here.

#### The "Cold" Stove-Lid Issue: S.2611

With the exception of the provisions pertaining to enforcement issues, most of the provisions of the Comprehensive Immigration Reform Act of 2006 (S.2611) neglect the earlier experiences that should have been learned with the passage of IRCA in 1986. The proposed legislation also contains provisions that have staggering implications for the future of the size and composition of the nation's labor force and population. Given the scale of the numbers involved, the effects of such massive changes themselves deserve careful scrutiny independent of being linked to the controversial subject of illegal immigration. The passage of IRCA, as discussed earlier, was supposed to have brought an end to the issue of illegal immigration. Based on the assumption that it did, the Immigration Act of 1990 was passed which dealt with the next step in "piecemeal reform:" legal immigration. Based on the premise that the "backdoor" to the American labor market was closed (i.e., illegal immigration), the Immigration Act of 1990 sought to open the "front door (i.e., legal immigration) by raising the annual level of legal immigration to about 675,000 persons a year plus refugees. But the premise proved to be false and by the mid-1990s the U.S. Commission on Immigration Reform (CIR), Chaired by Barbara Jordan (a former member of Congress but by then was a Professor at the University of Texas at Austin) was recommending that the level of legal immigration be reduced back to about its pre-1990 level of about 550,000 persons a year (including refugees).

As the findings of the Jordan Commission became public through a series of interim reports, Congress and the Clinton Administration did tinker with the issue of illegal immigration with the passage of the Illegal Immigration Reform and Immigrant

Responsibility Act of 1996. But none of the real needs -- such as a requirement for employers to verify the authenticity of social security numbers or the need for a verifiable worker identification system -- were included in the 1996 legislation. Likewise, all the Commission's recommendations for significantly reducing the annual level of legal immigration and making major changes in the admission categories were simply ignored. This was despite promises by both the President and congressional leaders that they would come back to these issues after the 1996 election. It never happened, of course. Had the major recommendations of the Jordan Commission been accepted, the immigration mess that nation has today could have been largely avoided.

Unfortunately, S.2611 shows no awareness of any of the findings, insights, and recommendations of CIR. This is despite the fact that its reports are the most politically impartial and carefully researched study of immigration that the nation has ever had. In sharp contrast, S.2611 seems to be the product of the wish list of every pro-immigration special interest group in Washington. None of its major provisions show the slightest awareness of any of the research on what is wrong with the existing immigration system and what can be done to reform it. Concern for the anticipated impact on the income, wages and employment opportunities for American workers of such massive changes in prevailing immigration policy is scant.

Estimates of the overall numbers of immigrants who will be admitted under S.2611 over the next 20 years are all over the place. They have ranged from 28 million to as high as 61 million and almost everywhere in-between.<sup>14</sup> The variation occurs, understandably, because many of the provisions require assumptions that simply cannot be known in advance by anyone. Human beings are involved and how they respond individually and collectively to legislative prompts, permissions and restrictions can never be known in advance for certain. Thus, much of what is proposed is a voyage into uncharted waters with respect to what may happen. If the scale of persons involved were small, the uncertainty would not matter much; but this is not the case. The estimated numbers are huge and the accompanying margins of error of analysis are large. The human consequences of a mistake that could flood the low skilled labor market and swamp the nation's social safety systems are enormous and could be disastrous to the nation.

By any stretch of the imagination, if the entire bill were enacted in its present form, the number of immigrants admitted should at least triple (to at least 53 million persons) over what would be the case if the law was left unchanged (about 18 million) over the next 20 years. These figures, however, do not allow for any continuation of illegal immigration over these years (which is, of course, unrealistic) and it omits some groups who may also benefit but are simply impossible to estimate in advance -- e.g., parents of those who eventually become naturalized citizens and, therefore, have the right to enter in unrestricted numbers.

Most of the "new" immigrants would enter as a result of the amnesty provisions and what is called "guest worker" provisions of the legislation. About 10 million of the estimated

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12 million illegal immigrants in the country would be eligible to benefit. Those who have been illegal for 2-5 years (about 1.8 million persons) can apply for a newly created H-2C visa entry card for a so-called “guest worker” program at specific ports of entry. After four years in that status (or sooner if their employer applies on their behalf), they can apply for permanent resident alien status but all of this time they may work in the U.S. labor force. For those illegally in the country more than 5 years (7.7 million persons), they can apply immediately ( i.e., they are placed on a “glide-path”) for a permanent resident card and will receive it as soon as the backlog of applicants can be processed. Meanwhile, they too have immediate legal access to the U.S. labor market. Lastly, there is also a special agricultural workers program, or “blue card” program, (for 1.1 million illegal immigrants working in the agricultural industry, about 830,000 of whom would be eligible under the other two amnesties but will probably choose this one because it has a much faster and cheaper way to become a permanent resident alien). This means that about 2 million illegal immigrants (those here less than 2 years) are the only ones who are supposed to leave or be deported if apprehended.

Most of the beneficiaries of these amnesties are already in the country and most who of working age are presumably employed or trying to be. Most are believed to be employed in the low skilled sector of the economy. By allowing them to stay and to legalize their status means they will be able to more easily move between jobs and employers so that the many American workers who presently compete with illegal immigrant workers cannot expect any relief. But to make matters worse, as they move around freely and legally, other unskilled workers in other geographical areas, occupations and industries may who have not competed with them in the past may now be impacted. Over time, these newly entitled workers are permitted to legally bring their immediate family members with them, it can be expected they too will gradually enter the low wage labor market too – some legally but others illegally if they come early. Even these estimates of behavior are likely to be underestimated since it is likely that there will be extensive fraud associated documentation of eligibility for the different categories and family relationships plus the certainty that illegal immigration will add even more. Moreover, as these persons become eligible to become naturalized citizens, their extended family relatives and their family members become eligible to immigrate. Over the next two decades, the percentage of the population who will be foreign born will soar to levels never before experienced in the country (certainly over 20 percent) as will the percentage of foreign born in the labor force hit unprecedented heights (perhaps as high as 24 percent).

Thus, if S.2611 is enacted, the only thing that can be said for sure is that the number of unskilled workers is going to swell enormously. This does not portend well for much in the way of upward wage pressure for those many American workers on the bottom of the economic ladder and it means the competition for low skilled jobs will be brutal. Rather than have market forces improve wages for low skilled American workers (if the illegal workers were removed from the labor market as current law says they should), market forces can be expected to keep wages for low skilled workers low (and probably falling in real terms). This means that they will have to hope that state and federal minimum wages levels are increased to circumvent the market and it is increasingly likely that, as

their numbers swell, state and local tax payers are going to be called-on to subsidize these low wage workers who are not going to be able to earn sufficient incomes by working to cover housing, health, and living expenses for themselves and their family members.

These amnesty programs, if enacted, will guarantee there will be no shortage of low wage workers for the next 20 years-- especially if illegal immigration continues to supplement the ranks of the low skilled pool. But there can be no parallel guarantee over these years that there will be a sufficient increase in demand for low-skilled workers whose unemployment rates are already among the highest in the nation. There is absolutely no evidence of a generalized labor shortage of low skilled workers or any signs of wage-induced inflationary pressures associated with shortages for such workers. Indeed, if ever there was a prescription for the resurrection of the Marxian notion of the existence of "a reserve army" of the poor and unemployed to keep wages depressed for the vast number of low skilled workers for those with jobs over the long run and to make this nightmare a reality, this legislation is it.

Likewise, at the other end of the wage scale, the proposal to dramatically expand the H-1B program for workers in specialty occupations has nothing to do with illegal immigration. But, it too has much to do with special interest lobbying for skilled labor that will be cheaper than if these industries have to compete for such workers among an exclusively American worker pool. The basic question is: why should the government use public policy to keep the wages of American workers lower than they would otherwise be or even to provide opportunities for employers of such skilled labor to avoid hiring or to replace American workers? The existing H-1B program is fraught with charges of hiring and layoff abuses. These concerns are associated with whether or not the program is designed to keep starting level wages low and, also, whether it is also used as a means to discriminate against older workers who, if retained, would command higher wages. It also conjures up opportunities for abuse associated with the issue of "indentured servitude." If the visa holder is intending to try to use it as a means to ultimately legally immigrate to the United States under the employment-based admission category, he often needs his employer to certify that he is needed and that qualified American workers are not available. There is no indication at the moment of any shortage of these skilled workers and it would be highly preferable, if there were to be one, that support be given by Congress to invest in the American youth and American training institutions to meet such a labor demand. There is no reason to expand this controversial program at a time when the public's attention is focused on the issue of illegal immigration.

And, of course, all of this assumes that the immigration bureaus in the Department of Homeland Security can adequately administer these new programs while keeping up with all of their other service and enforcement duties. These bureaus are already the most over worked, under staffed and, relative to the importance of their duties, the most under funded agencies in the entire federal bureaucracy. It is simply inconceivable that these bureaus could administer these added duties in anything near a competent manner, even if they tried. It would be far cheaper and far more effective to simply staff-up and fund-up the enforcement divisions and tell them to do what the law currently requires. The greatest beneficiaries of this simple mandate would be the low-skilled American worker.

### “Real” Comprehensive Reform

The title of S.2611 is The Comprehensive Immigration Reform Act but the legislation itself is not “comprehensive” at all. The logical starting point of any such effort would be the final report of the U.S. Commission on Immigration Reform (CIR) that was issued in 1997. CIR was concerned that the existing system pays virtually no attention to the labor market in its design. For the vast majority of immigrants, their human capital attributes play no role on their eligibility to immigrate. Whatever human capital attributes most immigrants bring to the United States is purely an accidental benefit to the nation. Far too many bring far too little. The “chain-migration” where by the admission of one person triggers an entitlement to the multiple entries of a myriad of family members only compounds the pattern

Unfortunately, as the data on the foreign-born population shows, many have low levels of educational attainment, are poorly skilled, and are non-English speaking. To reduce this outcome, CIR proposed that the level of legal immigration be reduced – not increased. To accomplish this feat, it recommended the deletion of most of the extended family admission categories of the current system that provide an eligibility claim for entry if one member of the family immigrated to the United States and naturalized. Specifically, CIR proposed that the categories that admit adult unmarried children of U.S. citizens; adult married children of permanent resident aliens; and the adult brothers and sisters of U.S. citizens all be eliminated. Doing so would greatly reduce the chain-migration features of the present system which is the major reason that human resource attributes play such a small role in determining the eligibility of most of those who are legally admitted. It is also a principle reason why the accumulating family reunification effects of S.2166 are so massive and so worrisome. They would entitle the potential admission of so many persons with low human capital endowments.

In this same vein, CIR also recommended the termination of the diversity admission category. The diversity lottery pays scant attention to any of the human capital attributes of who those it renders eligible to enter (as long as the “winners” have high school diplomas). Furthermore, CIR recommended that no unskilled workers be admitted under the employment-based admission category. It recognized that the nation already has a surplus of unskilled workers and certainly did not need to admit any more. CIR was emphatic in concluding that there should be no guest worker programs for unskilled workers and only such programs for skilled workers under very restrictive terms. No where in their findings did they recommend any amnesty for illegal immigrants. Instead, they made numerous recommendations to rid the labor market of their presence.

The findings of the Commission on Immigration Reform were the product of six years of careful study that was backed up by numerous public hearings, consultations with experts and research studies – including the work done by a panel created by the National Research Council. Comprehensive immigration reform should begin with CIR’s recommendations. There seems to be no awareness in the provisions of S.2611 of any of

CIR's work which leaves one wondering where did these anti-American worker ideas come from?

### Concluding Comment

Until it can be demonstrated the United States is willing and capable of enforcing its immigration laws, illegal immigration will continue with all of its negative impacts on American workers and corrosive effects on American society. Keeping illegal immigrants from entering the country without inspection or violating the terms of a legal visa and removing those in the country from the labor force is the prerequisite for all serious immigration reform efforts. Accomplishing this does not mean that amnesties should be given to those already here as a way to make the problem disappear. Such political sophistry -- as "experience" has shown -- only encourages more to come and, as shown, has enormous population and labor force consequences associated with family reunification rights of those granted legalization. More importantly, however, amnesty will do nothing to help the American workers and American taxpayers who are adversely affected by the presence the 12 million illegal immigrants currently here.

With Labor Day 2006 only a few days away and given the location of this hearing, a paraphrase of the words of a famous Indianan--Knute Rockne -- seems most appropriate for a conclusion: "Let's win one for the American Worker." Make enforcement of our immigration laws a reality. "And stop there."

### Endnotes:

1. For a discussion of how the "unexpected" came to be, see Vernon M. Briggs jr., Mass Immigration and the National Interest, (Armonk, N.Y.: M.E. Sharpe, Inc. 2003), Chapter 10.
2. Samuel Gompers, Seventy Years of Life and Labor, (New York: Dutton, 1925), Volume 2, p. 154.
3. Jeffrey Passel, "The Size and Characteristics of the Unauthorized Migrant Population in the U.S." Research Report, (Washington, D.C.: The Pew Hispanic Center, 2006), p.1.
4. The legalization programs have been: The Immigration Reform and Control Act ( 2.7 million adjustments in two separate amnesties); Section 245i rolling amnesties in 1994 and its legislative extension in 1997 (578,000 adjustments); the Nicaraguan Adjustment and Central American Relief Act of 1997 (1 million adjustments); the Haitian Refugee Immigration Fairness Act of 1998 (125,000 adjustments); the Late Amnesty Agreement of 2000 between President William Clinton and Congressional leaders to allow 400,000 illegal immigrants adjustments because, it was alleged, they should have qualified for one of the IRCA amnesties of 1986; and the Legal Immigration and Family Equity Act of 2000 ( 900,000 adjustments).
5. Passel, p.2.

6. George J. Borjas, "Increasing the Supply of Labor Through Immigration: Measuring the Impact on Native-Born Workers," Backgrounders, (Washington, D.C., May, 2004).
7. E.g., see Elizabeth Bogen, Immigration in New York, (New York: Praeger, 1987), p.91.
8. Eileen Appelbaum, Annette Bernhardt and Richard Murnane, Low Wage America, (New York: Russell Sage Foundation, 2003).
9. Steven A. Camarota, "Dropping Out: Immigrant Entry and Native Exit from the Labor Market, 2000-2005," Backgrounders, (Washington, D.C.: Center for Immigration Studies, March 2006).
10. Council of Economic Advisers, Economic Report of the President: 1994, (Washington, D.C. Government Printing Office, 1994), p. 120.
11. Chulhee Lee, "Rising Family Income Inequality in the United States, 1968-2000: Impacts of Changing Labor Supply, Wages and Family Structure," NBER working Paper No. 11836, Abstract.
12. E.g., see Peter Kwong, Forbidden Workers: Illegal Immigrants and American Labor, (New York: The New Press, 1997); Luis Urrea, The Devil's Highway, (New York: Little, Brown and Company, 2004); and Ted Conover, Coyotes: A Journey Through the Secret World of America's Illegal Immigrants, (New York: Vintage Books, 1987).
12. Olga R. Rodriguez, "Migrants Rush for Border Anticipating Guest Worker Plan," Ithaca Journal, (Associated Press story), (April 13, 2006), p. A-2.
13. Robert Rector, "Up to 61 Million Immigrants Might Flow into the U.S. Under Proposed Reform," and Stuart Anderson, "After Analyzing Data, Foundation Finds 28 Million a More Likely Figure" Rocky Mountain News, (July 1, 2006), pp.10C-11C.